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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/031,087	02/26/1998	CHIH-SHENG CHIANG	054769-2001	8207

30542 7590 03/18/2008

FOLEY & LARDNER LLP  
P.O. BOX 80278  
SAN DIEGO, CA 92138-0278

EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED: 03/18/2008

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09031087	2/26/1998	CHIANG ET AL.	054769-2001

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## EXAMINER

Joyce Tung

ART UNIT	PAPER
1637	20080229

DATE MAILED:

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## Commissioner for Patents

The appeal brief filed 12/10/07 is defective with the reasons as set forth in the attached paper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joyce Tung whose telephone number is (571) 272-0790. The examiner can normally be reached on Monday - Friday, 8:30-5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on 571 272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joyce Tung  
February 29, 2008.

1. This application is not considered ripe for appeal for the reasons set forth below:
2. The amendment to the specification received by the Office on 09/20/1999 and directed to the insertion of SEQ ID NOs was not entered because the amendments to Tables I-III were unclear. Accordingly the application is not in compliance with the sequence rules because the nucleic acid sequences listed in Tables I, II and III do not have sequence identification number. Applicants are directed to delete Tables I, II and III and provide a substitute tables with proper reference to sequence identifiers.
3. The brief does not adequately comply with 37 CFR 41.37(c)(1)(v) as it does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number, and to the drawing, if any, by reference characters; and/or does not identify the structure, material, or acts described in the specification as corresponding to each claimed function for every means plus function and step plus function for each independent claim involved in the appeal and for each dependent claim argued separately by reference to the specification by page and line number, and to the drawing, if any, by reference characters, as required by 37 CFR 41.37(c)(1)(v).

The appeal brief filed 12/10/07 does not contain a concise explanation of the subject matter of the sole independent claim 20. Claim 20 is directed to a method of monitoring nucleic acid amplification. At page 5 of the Brief support for claim 20 is stated as found at in the specification at page 2, lines 1-19. This citation is directed to a brief summary of the invention and is not considered to adequately map all the features of the claim.

Thus based upon the reasons set forth above, the appeal brief is defective.

4. Appellant is required to comply with provisions of 37 CFR 41.37(c). To avoid dismissal of the appeal, Appellant must comply with the provisions of 37 CFR 41.37(c) within ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication. Extensions of time may be granted under 37 CFR 1.136.
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joyce Tung whose telephone number is (571) 272-0790. The examiner can normally be reached on Monday - Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on 571 272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Joyce Tung  
February 29, 2008

/Gary Benzion/  
Supervisory Patent Examiner, Art Unit 1637